



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 30, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0231

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Lawful and Proper)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employee abused his discretion when he arrested her juvenile daughter.

SUMMARY OF INVESTIGATION:

The Complainant called 911 to report a noise complaint involving her two juvenile daughters, which included "fighting" and "arguing." When the officers arrived, they spoke to both girls. One of the girls said that her thirteen-year-old sister struck her with the bristle end of a broom. The officers then arrested the thirteen-year-old. She believed that this was "totally against the norm," noting that the thirteen-year-old had not been in trouble before. She felt that the officers' decision-making was "unethical" and inappropriate.

The officers' response to the incident was captured on Body Worn Video (BWV). The video showed the officers interviews of the daughters. One daughter told the officers that the thirteen-year-old entered her bedroom and asked for a charger. When she declined to provide the charger, the thirteen-year-old struck her in the head with a broom causing her to suffer pain.

Named Employee #1 (NE#1) was the primary officer on this call. He contacted his supervisor and discussed the incident and his observations with her. She told him to assess the evidence, make a decision, and then notify with her. After conferring with other officers and considering the totality of the evidence, NE#1 chose to arrest the thirteen-year-old for domestic violence (DV) assault. NE#1 informed the Complainant of this, and she stated to him: "I know why you had to do it..."

The thirteen-year-old was ultimately booked in juvenile detention. Her case was later referred to King County Family Intervention and Restorative Services, which focuses on reuniting families and providing services.



OPA also determined that, several months prior, NE#1 and other officers responded to a similar incident at the Complainant's residence. Then, the Complainant reported that the thirteen-year-old had assaulted her. However, NE#1 chose not to arrest the thirteen-year-old at that time. In his report, he noted the following:

I was familiar with all parties on this call, as I had responded to the residence in 2020...During the previous call I spoke with [the Complainant] and decided to not arrest [the thirteen-year-old] for pushing her. I informed [the Complainant] that if I return for a similar situation, I will not hesitate to arrest [the thirteen-year-old]. After completing my investigation on today's case...I made the decision to arrest [the thirteen-year-old] and charged her for the crime of RCW 9A.36.041 DV- Assault in the fourth degree

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

As indicated in SPD Policy 5.001-POL-6, "[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment." This policy further states that "[t]he scope of discretion is proportional to the severity of the crime or public safety issue being addressed." (SPD Policy 5.001-POL-6.)

In assessing the evidence in this case, OPA does not believe that NE#1 abused his discretion when he decided to arrest the thirteen-year-old. OPA reaches this conclusion for two main reasons. First, there was compelling evidence in the form of the statement provided by the other daughter that the thirteen-year-old engaged in an assault. Moreover, the thirteen-year-old attempted to mitigate her conduct in her statement to officers but did not deny the allegations made by the other daughter. Second, as NE#1 noted in his report, this was the second time he had responded to a domestic violence incident at the residence and where the thirteen-year-old was the perpetrator. Given this, he felt that, regardless of her age, an arrest was appropriate and needed to be made. Indeed, the Complainant appeared to recognize this at the time based on her contemporaneous statement to NE#1.

While OPA understands the Complainant's frustration and anger at her juvenile daughter being arrested by NE#1, OPA finds that he acted reasonably during this incident and did not abuse his discretion. Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**